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ATTORNEYS AT LAW

www.laboriawyeis.com

www.laborlawyers.com

May 17, 2012

Atlanta 1075 Peachtree Street, NE Suite 3500 Atlanta, GA 30309

(404) 231-1400 Tel (404) 240-4249 Fax

Sender's Direct Dial: (404) 240-4230 Sender's E-mail: Jwalters@laborlawyers.com

### FACSIMILE COVER PAGE

SENT TO:

Lester A. Heltzer

COMPANY:

National Labor Relations Board

**FAX NO.:** 

(202) 273-4270

PHONE NO.:

SENT BY:

James M. Walters

RE:

Case No. 1-RC-071163 [Kinney System, Inc./IBT Local 25]

TOTAL PAGES: (INCLUDING THIS COVER PAGE)

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#### SECRETARY:

### CLIENT/MATTER:

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Writer's E-mail: jwalters@laborlawyers.com

& U.S. Mall

Via Facsimlle: (202) 273-4270

Lester A. Heltzer, Executive Secretary National Labor Relations Board 1099 14<sup>th</sup> Street, N.W., Room 11602 Washington, D.C. 20570

Re: Case No. 1-RC-071163 [Kinney System, Inc./IBT Local 25]

Dear Mr. Heltzer:

The purpose of this letter/motion is to request, pursuant to Section 102.69(j)(3) of the Board's Rules and Regulations, as amended, and on behalf of the Employer in the above-referenced case, an extension of fourteen (14) days – from May 29<sup>th</sup> until June 12<sup>th</sup> – of the time for filing its Exceptions (and Supporting Brief) to the Report on Challenged Ballots issued by the Administrative Law Judge on May 15<sup>th</sup>, 2012. In support of this request, the Employer sets forth the following:

- [1] Despite the fact that post-hearing briefs were submitted timely and electronically to the ALJ, the Report on Challenged Ballots was not received by the Employer until receipt, via certified mail, in today's USPS delivery. And despite the issuance/service date of May 15<sup>th</sup> on that document, the Report on Challenged Ballots has not appeared on the NLRB's "Case Decisions" portion of its website (under either Administrative Law Judge Decisions or Regional Election Decisions) as of the filing of this request.
- [2] The record in this matter consists of nearly 250 pages of transcript and approximately two dozen exhibits, many of them multi-paged. Moreover, the circumstances surrounding the determinative challenged ballots (of which there are 37) raise some novel and unique issues deserving of thorough briefing to and consideration by the Board.
  - [3] No previous requests for an extension have been made or granted.
- [4] Counsel for the Regional Director, Joseph F. Griffin, Esq., has been attempted telephonic notification at (617) 565-6765 of this request in advance, but has not responded thereto. Counsel for the Petitioner, Jonathan M. Conti, Esq., has been notified of this request in advance and states that he is in opposition thereto.

Mr. Lester A. Heltzer May 17, 2012 Page 2

Lastly, I hereby certify this 17<sup>th</sup> day of May, 2012 that I have served copies of the foregoing request for extension of time upon the following counsel, via fax and U.S. mail:

Joseph F. Griffin, Esq Counsel for the Regional Director National Labor Relations Board Thomas P. O'Nelll Federal Bldg. 10 Causeway Street, Suite 601 Boston, MA 02222 Fax: (617) 565-6725 Jonathan M. Conti, Esq. Counsel for Petitioner Feinberg, Campbell & Zack, P.C. 177 Milk Street Boston, MA 02109 Fax: (617) 338-7070

Respectfully submitted,

James M. Walters

For FISHER & PHILLIPS LLP Counsel for the Employer

da;WML

cc: Joseph F. Griffin, Esq. Jonathan M. Conti, Esq.